

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #2	CCRB Case #: 201706461	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/07/2017 8:00 PM	Location of Incident: Jerome Avenue and West 192nd Street	Precinct: 52	18 Mo. SOL 12/7/2018	EO SOL 12/7/2018	
Date/Time CV Reported Wed, 06/07/2017 11:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/07/2017 4:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Thomas Demkiw	00691	945658	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Christina Moncion	11670	954455	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Thomas Demkiw	Abuse: Sergeant Thomas Demkiw stopped § 87(2)(b)	
B.SGT Thomas Demkiw	Force: Sergeant Thomas Demkiw struck § 87(2)(b) with a vehicle.	

Case Summary

On June 7, 2017, Lieutenant Ramnauth Ramlochan of the 52nd Precinct contacted the IAB Command Center to report that § 87(2)(b) had been injured during the course of his arrest. The case was subsequently received at the CCRB on August 8, 2017.

On June 7, 2017, at approximately 8:00 p.m., Sergeant Thomas Demkiw and Police Officer Christina Moncion, both from the 52nd Precinct, responded to the sound of gunshots coming from St. James Park in the Bronx. Around this time, § 87(2)(b) who was walking in the vicinity of West 192nd Street and Jerome Avenue in the Bronx, heard gunshots and began to run. He saw Police Officer Moncion and Sergeant Demkiw in a vehicle near him, and Police Officer Moncion instructed him to stop, which he did not do and continued running (**Allegation A- Abuse of Authority: Stop**, § 87(2)(g)). Police Officer Moncion exited the vehicle and pursued him on foot. Sergeant Demkiw pursued § 87(2)(b) in the vehicle, ultimately striking him against a stationary dumpster (**Allegation B- Force: Vehicle**, § 87(2)(g)). § 87(2)(b) was arrested and charged with § 87(2)(b)

(Board Review 01).

Video footage found in this case was recorded by surveillance cameras installed outside of Monroe College, obtained by IAB Group 54, and subsequently provided to the CCRB. The original footage is attached to IA number 33 (Board Review 09) and summarized in IA number 44 (Board Review 10). Relevant portions are embedded in the relevant sections below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Thomas Demkiw stopped § 87(2)(b)

On December 6, 2017, § 87(2)(b) was interviewed via Video TeleConference. On May 23, 2018, Sergeant Demkiw was interviewed at the CCRB. On June 29, 2018, Police Officer Moncion was interviewed at the CCRB.

While incarcerated, § 87(2)(b) refused to sign a verification form or HIPAA forms until his release. Once he was released, he failed to appear for an interview appointment and stopped responding to contact attempts.

§ 87(2)(b) stated that at the time of this incident, he was walking alone in the vicinity of Jerome Avenue and West 192nd Street in the Bronx and carried no firearm or other weapon. He heard the sound of three to four gunshots. § 87(2)(b) denied firing any shots and did not see any civilians do so. § 87(2)(b) and numerous other civilians ran away from the location. § 87(2)(b) then saw Police Officer Moncion and Sergeant Demkiw in their vehicle. Police Officer Moncion instructed § 87(2)(b) to stop, which he did not do and continued running. § 87(2)(b) pleaded guilty to Criminal Possession of a Weapon on the advice of his attorney.

Sergeant Demkiw stated that as he drove towards St. James Park, he heard four to six gunshots and drove into the park, from where numerous civilians ran. Witnesses pointed towards § 87(2)(b) who was alone and removing his shirt, and stated that he was “the shooter.” Sergeant Demkiw conducted a U-turn and moved in front of § 87(2)(b) who ran from the officers. Police Officer Moncion exited the vehicle and pursued § 87(2)(b) on foot.

Police Officer Moncion stated that she heard four to six gunshots in the vicinity of St. James Park. Over 50 civilians ran in all directions and out of the park, and Sergeant Demkiw drove into the park. Over ten civilians drew the officers’ attention and pointed towards § 87(2)(b) who stood across the street and wore a white T-shirt and red hat. The individuals stated that they had seen § 87(2)(b) firing a gun and identified him by his attire. One witness walked

towards § 87(2)(b) continuing to point at him. Sergeant Demkiw drove his vehicle towards § 87(2)(b) who removed his shirt and hat and threw them to the ground. Sergeant Demkiw used his vehicle to “cut off” § 87(2)(b) who ran from the officers. Police Officer Moncion exited her vehicle, pursued § 87(2)(b) and instructed him to stop, which he did not do.

UF-61 number § 87(2)(b) (Board Review 02) states that Police Officer Moncion was informed by “numerous” witnesses that § 87(2)(b) had fired shots into a public park, that they chased § 87(2)(b) and told Police Officer Moncion, “He’s the shooter,” that § 87(2)(b) fled and removed articles of clothing, and that shell casings were recovered from the location. The UF-61 named § 87(2)(b) (who did not respond to contact attempts from the CCRB) as a witness to the shooting.

§ 87(2)(g)

Allegation (B) Force: Sergeant Thomas Demkiw struck § 87(2)(b) with a vehicle.

Video footage of the incident, embedded below, shows § 87(2)(b) shirtless, running southbound in the northbound lane of the roadway on Jerome Avenue and holding a white object. Sergeant Demkiw’s vehicle approaches § 87(2)(b) from behind in the southbound lane of traffic and then moves into the northbound lane of traffic. § 87(2)(b) runs to his right towards the center of the roadway, and Sergeant Demkiw’s vehicle turns sharply to the right and strikes § 87(2)(b). Both § 87(2)(b) and Sergeant Demkiw’s vehicle make contact with a stationary dumpster in the southbound service lane of the roadway.



201706461_20180523_0830_DM.mp4

§ 87(2)(b) stated that as he ran from Sergeant Demkiw’s vehicle, Sergeant Demkiw drove it towards him and maneuvered it around a subway track support beam. § 87(2)(b) saw the vehicle approaching him and attempted to leap into the air to brace impact against it. § 87(2)(b) was struck and sustained a dislocated and fractured shoulder, lacerations to his leg and lip, and an abrasion on his elbow.

Sergeant Demkiw stated that after § 87(2)(b) began running from his vehicle, he drove his vehicle towards § 87(2)(b) and moved it into the northbound (opposing) lane of traffic in an attempt to become parallel to § 87(2)(b) and then move in front of him. Sergeant Demkiw’s intended maneuver to move in front of § 87(2)(b) was designed to allow him to exit his vehicle and apprehend § 87(2)(b) or cause § 87(2)(b) to change his direction of flight such that Police Officer Moncion may have been able to apprehend him. Approximately one second after this, Sergeant Demkiw’s vehicle became parallel to § 87(2)(b) who was to its right side.

Sergeant Demkiw traveled parallel to § 87(2)(b) for less than one city block and attempted to move his vehicle in front of him, which he was able to do. Sergeant Demkiw denied being aware of his vehicle having moved to the left or right whatsoever during this time, stating that he drove southbound and did not move “in and out” of traffic.

After moving in front of § 87(2)(b) Sergeant Demkiw turned his vehicle to the right in an attempt to avoid striking an elevated train track support pillar, striking § 87(2)(b) or colliding

with oncoming vehicles. Sergeant Demkiw saw § 87(2)(b) to the right of his vehicle as it moved in front of him. (When asked during his CCRB interview to clarify the difference between the act of attempting to get in front of § 87(2)(b) and the act of turning his vehicle to the right, Sergeant Demkiw stated that these actions were one and the same.) As Sergeant Demkiw turned his vehicle, he lost control of it, in that he turned the steering wheel farther than intended, causing the vehicle to move sharply to the right. Sergeant Demkiw did not lose control of the vehicle in any other manner, had not lost control of it prior to this, and did not have time to perform any action in an attempt to regain control of it.

“Instantaneously” after Sgt. Demkiw lost control of his vehicle, it collided with a garbage dumpster. He did not think, at the time, that his vehicle struck § 87(2)(b). However, he later learned when viewing video footage of the incident that his vehicle had done so. Sergeant Demkiw denied that he intentionally struck § 87(2)(b) with his vehicle.

During his CCRB interview, Sergeant Demkiw was presented with the SnagIt excerpt of the video footage embedded above. At the 00:04 mark, Sergeant Demkiw stated that the grey sedan traveling southbound on Jerome Avenue was his vehicle. Sergeant Demkiw was not sure which support pillar he had attempted to avoid. When viewing the footage at normal speed from the 00:02 mark to the 00:08 mark, Sergeant Demkiw stated that at approximately the 00:06 mark, when § 87(2)(b) crossed behind his vehicle and out of view, he looked over his shoulder towards where he thought § 87(2)(b) to be, attempted to avoid the support pillar and oncoming traffic, and lost control of his vehicle.

When asked if he could determine the moment in which he attempted to get in front of § 87(2)(b) Sergeant Demkiw stated that he did this when § 87(2)(b) crossed behind his vehicle and denied that the action of moving from the southbound lane to the northbound lane represented this attempt. When asked to clarify whether he attempted to get in front of § 87(2)(b) prior to or after losing control of his vehicle, Sergeant Demkiw stated that these two actions occurred simultaneously.

While the NYPD Patrol Guide has no specific procedure addressing pursuits of suspects who are on foot by officers in vehicles, it has an analogous procedure regarding pursuits of suspects fleeing in vehicles (NYPD Patrol Guide Procedure 221-15) and a relevant procedure regarding the use of deadly physical force (NYPD Patrol Guide Procedure 221-01). Department policy requires that the pursuit of a suspect in a fleeing vehicle by officers be terminated whenever the risks to uniformed members of the service and the public outweigh the danger to the community if the suspect is not immediately apprehended. NYPD Patrol Guide Procedure 221-15 (Board Review 03). Deadly physical force, defined by the NYPD as force that is readily capable of causing death or serious physical injury (NYPD Patrol Guide Procedure 221-03 (Board Review 04)), may only be used to protect members of service and/or the public from imminent serious physical injury or death. NYPD Patrol Guide Procedure 221-01 (Board Review 05).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 06).
- Sergeant Demkiw has been a member-of-service for ten years and has been a subject in four CCRB complaints and seven allegations, one of which was substantiated.
 - 200818332 involved a substantiated allegation of stop against Sergeant Demkiw. The Board recommended Charges, and the NYPD imposed no disciplinary action due to the statute of limitations.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- As of October 9, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 07).
- According to the NYC Department of Correction Inmate Lookup Service and the Office of Court Administration (OCA), § 87(2)(b) pleaded guilty to Criminal Possession of a Weapon and served seven months' imprisonment for the criminal case stemming from his arrest in this incident. OCA does not list any other convictions (Board Review 08 and 11).

Squad: 2

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date